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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed December 12, 2005. In the Office Action, the Examiner notes that claims 13-17, 21 and 38 are pending of which claims 13-17 and 21 are rejected and claim 38 is objected to.

In view of the following discussion, Applicants submit that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

REJECTION OF CLAIMS UNDER 35 U.S.C. §102

Claims 13-17 and 21

The Examiner has rejected claims 13-17 and 21 under 35 U.S.C. §102(e) as being anticipated by Fujisaki U.S. Patent No. 6,466,574, hereinafter "Fujisaki"). Applicants respectfully traverse the rejection.

In general, Fujisaki teaches a method for improving quality of service of Internet real-time media transmission in which redundant frames are transmitted. As taught in Fujisaki, the frames of a message are replicated, and each frame replica is directed through the network over a different route. The destination of the replicas reassembles the sent message using the received replicas. (Fujisaki, Abstract). Fujisaki, however, fails to teach or suggest each and every element of Applicants' invention of at least claim 13. Namely, Fujisaki fails to teach or suggest at least the limitations of "calculating a counter value related to a received packet identifier, comparing the counter value with a packet identifier in each of the multiple copies of the received signaling packet to identify the multiple copies of the signaling packet," as taught in Applicants' invention of at least claim 13. Specifically, Applicants' claim 13 recites:

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A method for use in a node of a packet network including a plurality of communication paths, the method comprising the steps of:

receiving multiple copies of a signaling packet from at least two diverse communication paths of said packet network;

calculating a counter value related to a received packet identifier;

comparing the counter value with a packet identifier in each of the multiple copies of the received signaling packet to identify the multiple copies of the signaling packet; and

selecting one of the received multiple copies of the packet in response to comparing each packet identifier in the received multiple copies of the packet, wherein the one signaling packet selected is chosen without regard to the diverse communication path on which it is received.

[Emphasis added.]

As taught in Applicants' invention of at least claim 13, a counter value related to a received packet identifier is calculated. In the Office Action, the Examiner states that the sequence number of Fujisaki corresponds to the counter value calculated in Applicants' invention. The Applicants' respectfully disagree. The sequence number of Fujisaki that is referenced by the Examiner is not a counter value as taught in Applicants' invention of at least claim 13. Rather, the sequence number taught in Fujisaki is a merely a header value identifying the position of each replica within the message. Specifically, Fujisaki teaches that "[r]econstruction will be done by the use of the well known packet sequential number information in the RTP (Real-time Protocol) header which identifies the position of each of the replicas in the sent message." (Fujisaki, Col. 7, Lines 56-59).

In other words, the sequence number taught in Fujisaki is merely a header value included within the header of each replica prior to transmission of the replicas over the diverse communication paths. As taught in Fujisaki, after the replicas have traversed the network, sequence numbers included in the packet headers are used for reconstructing the message. By contrast, Applicants' invention of claim 13 clearly claims calculating a counter value related to a received packet identifier. There is clearly no calculating step in Fujisaki. As such, including a sequence number within a header prior to transmission of copies of a frame, as taught in Fujisaki, is simply not calculating a counter value after copies of a packet are received, as taught in Applicants' invention of at least claim 1.

Furthermore, as claimed in Applicants' invention of claim 13, the calculated counter value is compared with a packet identifier in each of the multiple copies of the received

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signaling packet to identify the multiple copies of the packet. By contrast, Fujisaki teaches that as replicas are received, a comparison is done between the sequence number of the received replica and each of the sequence numbers of previously received replicas in order to place the replicas in the correct order. Specifically, Fujisaki teaches that “[a]s the replicas 120R are received, those retained are placed in their correct order (of the sent message) as determined by their packet sequence number information in the header.” (Fujisaki, Col. 8, Lines 4-7).

In other words, the received replicas taught in Fujisaki are compared against each other in order to reconstruct the message. More specifically, as taught in Fujisaki, a sequence number is compared against other sequence numbers. The received replicas taught in Fujisaki are clearly not compared against a counter value, much less a calculated counter value related to a received packet identifier, as taught in Applicants' invention of at least claim 13. Furthermore, even if the sequence number of Fujisaki did teach a calculated counter value (which Applicants maintain it does not), the additional teachings of Fujisaki would result in a system in which a counter value is compared against other counter values, resulting in a system completely different from Applicants' invention of at least claim 13.

Furthermore, as claimed in Applicants' invention of claim 13, the counter value is compared with a packet identifier in each of the multiple copies of the received signaling packet to identify the multiple copies of the signaling packet. As such, even if the sequence number of Fujisaki did teach a calculated counter value (which Applicants maintain it does not), Fujisaki would merely teach that a counter value is compared against other counter values for determining the correct order of replicas. In other words, comparisons performed for determining the correct order of replicas, as taught in Fujisaki, clearly do not teach comparisons for identifying multiple copies of a signaling packet, as taught in Applicants' invention of at least claim 13. As such, Fujisaki fails to teach or suggest each and every element of Applicants' invention.

“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim” (Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481,

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485 (Fed. Cir. 1984) (citing Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added). The Fujisaki reference fails to disclose each and every element of the claimed invention, as arranged in the claim.

As such, Applicants submit that independent claim 13 is not anticipated and fully satisfies the requirements of 35 U.S.C. §102 and is patentable thereunder. Furthermore, claims 14-17 and 21 depend, either directly or indirectly, from independent claim 13 and recite additional features thereof. As such, and for at least the same reasons discussed above, Applicants submit that these dependent claims also are not anticipated and fully satisfy the requirements of 35 U.S.C. §102 and are patentable thereunder. Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

ALLOWABLE SUBJECT MATTER

Claim 38 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for indicating the allowable subject matter with respect to claim 38. However, in view of the arguments set forth herein, Applicants believe that base claim 13 (as well as all intervening claims) is in allowable form and, as such, dependent claim 38, as it stands now, is therefore in allowable condition. Therefore, Applicants respectfully request that the foregoing objection to claim 38 be withdrawn.

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CONCLUSION

Applicants respectfully submit that this application is in condition for allowance. Entry of this response, reconsideration, and allowance are respectfully solicited.

If the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact Michael Bentley at 732-383-1434 or Eamon J. Wall at 732-530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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